

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MR. ZAIN NABAWI,

Plaintiff,

v.

CIVIL ACTION NO. 5:19-cv-693

WARDEN D.L. YOUNG,
MEDICAL NURSE ROSE, and
“All Present Staff in Kitchen at
Time of Incident,”

Defendants.

ORDER

Pending is Defendant Warden D.L. Young’s Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Doc. 22], filed August 3, 2020. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on December 17, 2020. Magistrate Judge Aboulhosn recommended that the Court grant Defendant Young’s Motion to Dismiss, or in the Alternative, Motion for Summary Judgment and refer the matter anew to him for further proceedings.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*”) (emphasis added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s

right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 10, 2021.¹ No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 37**], **GRANTS** Defendant Young’s Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [**Doc. 22**], and **REFERS** the matter anew to the Magistrate Judge for further proceedings.²

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: March 29, 2021

 
Frank W. Volk
United States District Judge

¹ Mr. Nabawi’s objections were originally due on January 4, 2021, but none were filed. The Court thus adopted the Magistrate Judge’s PF&R on January 11, 2021. On February 10, 2021, however, the Court vacated its Order after receipt of Mr. Nabawi’s motion requesting an extension of time to file objections inasmuch as he did not receive the PF&R until after his objections were originally due. The Court thus granted Mr. Nabawi’s extension request and ordered him to submit his objections by March 10, 2021. [*See* Doc. 43].

² On February 16, 2021, six days after the Court granted Mr. Nabawi’s first motion for an extension of time to file objections to the PF&R, Mr. Nabawi filed a second motion again requesting a month extension to submit objections. Mr. Nabawi’s motion reiterated that he did not receive the Magistrate Judge’s PF&R until January 20, 2021, nine days after his objections were originally due. Inasmuch as the Court granted Mr. Nabawi’s request for a month extension on February 10, 2021, the Court **DENIES AS MOOT** Mr. Nabawi’s second motion [**Doc. 45**].